

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMMAL JACKSON,

Petitioner,

Civil No. 2:21-CV-12200

HONORABLE VICTORIA A. ROBERTS

v.

UNITED STATES DISTRICT JUDGE

MICHELLE FLOYD,

Respondent,

**OPINION AND ORDER GRANTING PETITIONER’S MOTION TO
REISSUE THE OPINION AND ORDER (ECF No. 7), DIRECTING THE
CLERK OF THE COURT TO MAIL A COPY OF THE OPINION AND
ORDER HOLDING INABEYANCE THE PETITION FOR WRIT OF
HABEAS CORPUS AND ADMINISTRATIVELY CLOSING THE CASE
(ECF No. 6) AND A COPY OF THIS ORDER TO PETITIONER, AND
GRANTING PETITIONER AN EXTENSION OF TIME TO FILE HIS
POST-CONVICTION MOTION FOR RELIEF FROM JUDGMENT WITH
THE STATE COURT**

Jammal Jackson, (“Petitioner”), filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On September 22, 2021, the petition was held in abeyance to permit Petitioner to return to the state courts to exhaust additional claims. Petitioner was given ninety days to file his post-conviction motion with the state trial court. The Court administratively closed the case.

Petitioner filed a motion for reissuance of the Court’s opinion and order. Petitioner claims he never received a copy of the opinion and order and only learned on November 4, 2021 that the case had been held in abeyance.

For the reasons that follow, the Court orders the Clerk of the Court to reissue the September 22, 2021 opinion and order holding the petition in abeyance and mail a copy of that opinion and this order to Petitioner. Petitioner is GRANTED a ninety day extension of time to file his post-conviction motion for relief from judgment with the state court.

Fed. R. Civ. P. 60(b) allows a court to reissue an opinion and order where a party to the litigation did not receive timely notice of the judgment or order. *See e.g. Williams v. Arn*, 654 F. Supp. 241, 246 (N.D. Ohio 1987). The opinion and order of September 22, 2021 holding the petition in abeyance is vacated; the Court reinstates the opinion entered on that date *nunc pro tunc* as of the date of this order. *See Id.*, at 248.

The Clerk of the Court is directed to mail a copy of the Opinion and Order Holding in Abeyance The Petition For A Writ of Habeas Corpus and Administratively Closing the Case (ECF No. 6) and a copy of this order by first-class mail to Petitioner.

Petitioner is granted a ninety day extension of time to file his motion for relief from judgment with the state trial court. A federal district court has the power to extend the stay of a habeas petition, particularly where the respondent does not oppose the extension of the stay. *See e.g. Roberts v. Norris*, 415 F.3d 816, 819 (8th Cir. 2005).

IT IS HEREBY ORDERED That:

- (1) The motion for reissuance of the order (ECF No. 7) is **GRANTED**. The Opinion and Order Holding the Opinion and Order Holding In Abeyance the Petition for Writ of Habeas Corpus and Administratively Closing the Case dated September 22, 2021 is vacated and is reinstated *nunc pro tunc* as of the date of this order.
- (2) The Clerk of the Court shall mail a copy of the Opinion and Order Holding In Abeyance the Petition for Writ of Habeas Corpus and Administratively Closing the Case (ECF No. 6) and a copy of this order to Petitioner via first-class mail.
- (3) Petitioner is GRANTED a ninety day extension of time from the date of this order to initiate post-conviction proceedings in the state courts. Petitioner is still required to return to federal court within ninety days of completing the exhaustion of state court post-conviction remedies.

s/ Victoria A. Roberts

HON. VICTORIA A. ROBERTS

UNITED STATES DISTRICT COURT JUDGE

Dated: 11/18/2021